



North America Europe Asia

2121 N. Pearl Street
Suite 900
Dallas, TX 75201
T +1 214 453 6500
F +1 214 453 6400

NATALIE L. ARBAUGH
(214) 453-6421
NArbaugh@winston.com

September 10, 2021

VIA ECF

Hon. Lorna G. Schofield
U.S.D.C. - Southern District of New York
500 Pearl Street
New York, New York 10007

**Re: *River Light V, L.P., et al. v. Olem Shoe Corp.* (1:20-cv-07088-LGS)
Request to File Under Seal re Plaintiffs' Letter in Response to Defendant's Letter
Requesting Pre-Motion Conference on Summary Judgment**

Dear Judge Schofield:

I represent Plaintiffs River Light V, L.P. and Tory Burch LLC ("Tory Burch") and, in accordance with Your Honor's Individual Rules and Procedures in Civil Cases I.D.3, I write to request that limited portions of Plaintiffs' Letter in Response to Defendant's Letter Requesting Pre-Motion Conference on Summary Judgment ("Response Letter"), filed via ECF today, be redacted and filed under seal.

An unredacted version of Plaintiffs' Response Letter with the portions requested to be sealed highlighted in yellow will also be electronically filed today.

Tory Burch's proposed redactions have been narrowly tailored to address the Parties' Protective Order designations. In particular, Tory Burch requests that the highlighted language in Plaintiffs' Response Letter be sealed because it quotes or paraphrases deposition testimony and expert witness reports, and describes record evidence, that the Parties have designated as Confidential or Highly Confidential pursuant to the Agreed Protective Order in this case. *See* ECF No. 35 at ¶ 20 (requiring that "All Confidential Information or Highly Confidential Information filed with the Court shall be filed under seal"). The Protective Order in this case requires that "extracts or summaries" of Confidential Material shall be deemed confidential. Dkt. No. 35 at ¶¶ 5, 7. In addition, the Protective Order requests that "all testimony concerning a particular document or exhibit shall be treated consistently with the confidentiality designation of the underlying document." Dkt. No. 35 at ¶ 11. Thus, when a confidential document is summarized or discussed in the deposition transcripts, Tory Burch has requested the required redaction. With respect to confidential information of Tory Burch, the information proposed to be sealed reflects confidential or highly confidential information of Tory Burch, a private company, which it maintains as confidential and does not share publicly, including specific financial information, specific information about its Miller product line and specific information about its advertising strategy with third parties.

Finally, included in Tory Burch's enclosed redaction requests are requests to redact the deposition testimony of Mr. Dennis Comeau, an expert witness for Defendant. This transcript was received in rough format by the Parties on August 20, 2021. Pursuant to the Protective Order in this case "[a]ll deposition transcripts shall be treated as 'Attorneys' Eyes Only-Highly Confidential' for a period of twenty-one (21) days after the receipt of the [final] transcript." Dkt. No. 35 at ¶ 11. Additionally, counsel for Defendant has specifically designated the deposition as highly confidential under the Protective Order.

Accordingly, Tory Burch respectfully requests that the Court approve Tory Burch's redactions and file its Response Letter under seal.

Tory Burch thanks the Court for its consideration.

Respectfully,

/s/ Natalie L. Arbaugh

Natalie L. Arbaugh

Admitted Pro Hac Vice

NArbaugh@winston.com

Winston & Strawn LLP

2121 North Pearl Street, Suite 900

Dallas, TX 75201

(214) 453-6421 Main

(214) 453-6400 Fax

ATTORNEY FOR PLAINTIFFS

RIVER LIGHT V, L.P. and

TORY BURCH LLC

cc: All Counsel of Record (via ECF)

APPENDIX

Pursuant to Your Honor's Individual Rules and Procedures in Civil Cases I.D.3, the following list identifies all parties and attorneys of record who should have access to the sealed documents at issue:

Counsel for Defendant Olem Shoe Corp.

Bernardo Burstein

Mark S. Kaufman

Counsel for Plaintiffs River Light V, L.P. and Tory Burch LLC

Natalie L. Arbaugh

Diana Hughes Leiden

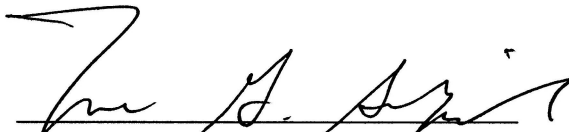
Francie Berger

Chante Westmoreland

In the Court's decision regarding whether a document may be filed under seal, the three-part test in *Lugosch* -- not the Parties' Protective Order -- controls. See *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119-20 (2d Cir. 2006). Plaintiffs shall file a supplemental letter by **September 16, 2021**, identifying the basis for sealing the redacted portions in accordance with the three-part test in *Lugosch*.

SO ORDERED.

Date: September 13, 2021
New York, New York



LORNA G. SCHOFIELD

UNITED STATES DISTRICT JUDGE